

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Harry Feigen	Team: Squad #4	CCRB Case #: 201504827	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/02/2015 4:30 PM	Location of Incident: 43rd Avenue and 13th Street	Precinct: 108	18 Mo. SOL 12/2/2016	EO SOL 12/2/2016	
Date/Time CV Reported Tue, 06/02/2015 7:16 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 06/12/2015 11:11 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Ricardo Moreno	25829	939077	NARCBQN
2. An officer			NARCBQN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jhonnatan Sanchezpena	10623	947455	NARCBQN

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Force: An officer pointed his gun at § 87(2)(b)	
B.POM Ricardo Moreno	Force: PO Ricardo Moreno used physical force against § 87(2)(b)	

Case Summary

On June 2, 2015, Sgt. Lisamarie Velotta reported that § 87(2)(b) had sustained an injury while being placed under arrest, generating IAB log number 15-15281.

On June 2, 2015, at approximately 4:30 p.m., § 87(2)(b) was walking by himself on 21st Street near the intersection between 44th Avenue and 43rd Avenue in Queens, when an unmarked police van pulled up and stopped next to § 87(2)(b). PO Ricardo Moreno, who was in plainclothes, exited the passenger seat of the van, and started walking towards § 87(2)(b). He told § 87(2)(b) to come over, and § 87(2)(b) immediately started to run away down 21st Street.

§ 87(2)(b) ran around the block while PO Moreno chased on foot. § 87(2)(b) threw several bags of heroin he had in his pocket onto the sidewalk while he ran. At the intersection of 13th Street and 43rd Avenue, the van pulled in front of § 87(2)(b) and PO Jhonnatan Sanchezpena exited the driver seat of the vehicle. He pointed his gun at § 87(2)(b) (**Allegation A**) and told him to get down on the ground. § 87(2)(b) complied, and PO Sanchezpena placed § 87(2)(b) in handcuffs.

PO Moreno reached where PO Sanchezpena had handcuffed § 87(2)(b) and stated, "Oh, you wanna run?" He then kicked § 87(2)(b) twice in his face while he was still lying on the ground (**Allegation B**). The first kick hit § 87(2)(b) in his mouth, and knocked his tooth out. The second kick hit § 87(2)(b) in his eye.

§ 87(2)(b) was brought to § 87(2)(b), and later to Central Booking, where he was charged with § 87(2)(b).

Mediation, Criminal, and Civil Histories

- This case was not suitable for mediation, due to § 87(2)(b)'s arrest.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
- A notice of claim request was submitted to the Comptroller's office on July 22, 2015. It will be added to the case file upon its receipt.

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint.
- PO Moreno has been a member of service for nine years. There are no substantiated allegations on his record, § 87(2)(g).

Findings and Recommendations

Explanation of subject officer identification

§ 87(2)(b) alleged that the officer driving the van, PO Sanchezpena, was the one who pointed his gun at § 87(2)(b) prior to his apprehension. PO Sanchezpena denied that he did so, however, while PO Moreno acknowledged pointing his gun at § 87(2)(b) at that point of the incident. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegations not pleaded

- § 87(2)(g)
- § 87(2)(g)
- § 87(2)(g)
- § 87(2)(g)
- § 87(2)(g)
- § 87(2)(g)
- § 87(2)(g)
- § 87(2)(g)
- § 87(2)(g)
- § 87(2)(g)
- § 87(2)(g)
- § 87(2)(g)
- § 87(2)(g)

Allegation A: Force – An officer pointed his gun at § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) It is undisputed that § 87(2)(b) immediately ran away when PO Moreno exited the van and told § 87(2)(b) to come over, and that the officers had to chase § 87(2)(b) for several blocks before apprehending him. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

An officer is allowed to point his gun at an individual if that person is behaving in a reckless manner which reasonably causes the officer to fear for his safety. Police Department vs. Gliner OATH index No. 955/400 (2000) (04 Board Review).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation B: Force – PO Ricardo Moreno used physical force against § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) immediately fled when PO Moreno exited the officers' van and told § 87(2)(b) to come over. PO Moreno chased § 87(2)(b) on foot for approximately two blocks, while PO Sanchezpena followed in the van. PO Sanchezpena got in front of § 87(2)(b) exited the van, and brought § 87(2)(b) to the ground. PO Moreno arrived shortly afterwards, and both officers got on top of § 87(2)(b) who was on his back. The officers attempted to place § 87(2)(b) in handcuffs, and he resisted by moving his arms and placing them in his pants waistband. PO Moreno then punched and kicked § 87(2)(b) multiple times in his shoulders and face, and the officers were subsequently able to place § 87(2)(b) in handcuffs. The officers had no reason to believe § 87(2)(b) was armed.

It is undisputed that § 87(2)(b) sustained several injuries while being apprehended by PO Moreno and PO Sanchezpena. These included a front upper tooth getting knocked out, and cuts and bruising around his right eye. § 87(2)(b)'s medical records of the treatment he received immediately after the incident document these injuries, and the facial abrasions are apparent on his arrest photograph as well (05 Board Review).

§ 87(2)(g)

PO Moreno admitted to punching § 87(2)(b) in his shoulder blades multiple times, and also once in the back of his head, while PO Moreno and PO Sanchezpena were on top of § 87(2)(b) and attempting to place him in handcuffs. When asked if he kicked § 87(2)(b) in the face, PO Moreno stated that he used any physical force that he could to apprehend § 87(2)(b). When asked again if he kicked § 87(2)(b) in the face, PO Moreno stated that he kicked § 87(2)(b) all over his body, and that he "probably" kicked him in the face. While PO Sanchezpena only admitted to observing PO Moreno punch § 87(2)(b) in his shoulder, his claim that he could not see whether PO Moreno used any other force against § 87(2)(b) is dubious, as both officers were apprehending § 87(2)(b) together. PO Moreno also sustained an injury to his right hand during this incident, for which he had to go Line-of-Duty. While PO Moreno could not recall in his CCRB statement what caused the injury to his hand, in his Line-of-Duty paperwork he stated that it was caused by punching § 87(2)(b) (06 Board Review). § 87(2)(g)

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

According to Patrol Guide procedure 203-11, an officer can only use the minimum amount of force necessary to overcome a person's resistance while being placed under arrest (07 Board Review).

§ 87(2)(g)

[REDACTED]

Pod:

Investigator: _____
Signature Print Date

Pod Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date